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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [GG](#)
SUBJECT: GEORGIA: PROTEST LAW PASSED - RAKLES OPPONENTS
AND CIVIL SOCIETY REPS

REF: TBILISI 1250

Classified By: AMBASSADOR JOHN F. TEFFT. REASONS: 1.4 (B) AND (D).

¶1. (C) Summary: The revision to the Law on Protests (reftel), which strengthens the Government's authorities, was passed July 17. Critics have questioned the need to enact the law so quickly and raised concerns about the provision that extended the maximum term of administrative detention from 30 to 90 days; the provision that permits the use of "non-lethal" force; and the provision that makes the "artificial" blocking of roads an administrative offense. Once President Saakashvili signs the legislation it will become binding. GoG officials have indicated to us and stated publicly that they will forward the law to the Venice Commission for review and comment. End Summary.

¶2. (C) Comment: The speed with which the law was passed has raised questions about the reason for the haste. Parliamentarians have told the Ambassador that the Government needs more authority to control protests should a new wave of demonstrations begin in September. Notwithstanding the quickness of the legislative process, even NGOs critical of the amendments to the law acknowledge that they were given ample opportunity to voice their concerns to MPs, even gaining a concession on the ability to appeal administrative procedures. Despite the criticism, in our reading of the text and that of our European diplomatic colleagues, the law appears to be within European standards and the voiced objections appear to have more to do with a mistrust that the GoG will abuse the provisions than a criticism of the nature of the provisions themselves. We will continue to urge that the GoG submit the law to the Venice Commission for review and incorporate its suggestions if appropriate. End Comment.

The Controversial Provisions - Not So Controversial

¶3. (C) The most controversial provision is the extension of the maximum term of administrative detention from 30 to 90 days. GoG interlocutors argue that the change only allows judges more discretion. The GoG has clearly not convinced its critics as to why the change was necessary, largely skirting public discussion of the issue. Executive Director of Open Society Georgia Foundation Ketvi Khutsishvili told the DCM that she had not received an adequate explanation of why the amendments needed to be adopted in the first place. Khutsishvili argued that the current law would have allowed the GoG to remove "cells", prosecute wrongdoers, and remove people from blocking major thoroughfares. Khutsishvili opined that lack of political will and not the legal framework was the reason the GoG did not/could not disband the protesters and the cells quickly.

¶4. (C) GYLA director Tamar Khidasheli explained that she was concerned about a lack of due process in the administrative penalty regime itself. Khidasheli said that unlike ordinary detention which was governed by a clear code of procedures, administrative detainees did not have similar protections (such as access to lawyers, showers, exercise

time, clergy, phone privileges etc.), and were subject to the whims of the MoIA. Khidasheli said that an expansion of the administrative law regime, in the absence of clear protections for administrative detainees, represented a step backwards. Khidasheli noted that the provision allowing appeals was positive though expressed doubt that it would provide adequate safeguards against abuse of judicial discretion. According to Khidasheli, the provision only allowed appellate review if new evidence was presented, thereby limiting the ability of administrative detainees to appeal. (Embassy Comment: Both Khidasheli and Khutsishvili made rational, solid arguments about their concerns with the protest law. The main thrust of their arguments was not that the law was objectively poor; but rather it expanded discretion which would likely be abused by the GoG without adequate safeguards. End Comment.)

15. (C) NGOs also raised issue with the provision regarding the use of non-lethal force in dispersing illegal demonstrations. Khidasheli and Khutsishvili both expressed their concern that MoIA officers lacked the training to carry out the use of non-lethal force in an effective, professional manner. Both also were concerned that the law granted the MoIA the authority to outline the types of non-lethal weapons and circumstances in which they would be used. Neither Khidasheli nor Khutsishvili had seen a draft or were confident that the process in which the draft was written would be transparent. Lastly, both said they felt the provision outlawing the artificial blocking of roads was insufficiently clear and could lead to arbitrary enforcement.

Christian Democratic Movement Stages Walkout

16. (C) A clearly frustrated Giorgi Targamadze (CDM leader) told Poloff that the law should not have been pushed through Parliament in such an expedited manner. Targamadze, who met Poloff about one hour after CDM staged an impromptu walkout, said he was disappointed that the ruling UNM party did not address significant and legitimate questions about the law. Like Khidasheli and Khutsishvili, Targamadze was concerned about the administrative detention portion of the law above all else.

17. (C) Targamadze expressed his disappointment and disbelief that Parliament could not have waited until after a Venice Commission review to pass the law. Targamadze told Poloff that he would focus his attention on trying to convince President Saakashvili to veto the legislation, an eventuality he did not deem likely. Khutsishvili and Khidasheli said that they were also likely to appeal to the President on behalf of civil society organizations to postpone signing the legislation into law until after the Venice Commission provided comments. The Ambassador in fact asked several MPs why the legislation was passed so hastily before Venice Commission review. The answer was quite clear – the GoG wanted the law on the books in anticipation of possible further autumn protests. As a result, we believe that President Saakashvili is likely to sign the law in short order and then seek a Venice Commission review. We understand that a Venice Commission review would likely take some time and probably not be completed until late fall at the earliest.

TEFFT